

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
Petition of the Verizon Telephone Companies	)	
For Forbearance Pursuant to	)	WC 06-172
47 U.S.C. § 160 (c) in the Philadelphia,	)	
Pittsburgh, Boston, New York City,	)	
Providence and Virginia Beach Metropolitan	)	
Statistical Areas	)	

**COMMENTS OF THE DELAWARE PUBLIC SERVICE COMMISSION  
AND THE DELAWARE DIVISION OF THE PUBLIC ADVOCATE**

**BACKGROUND**

The Delaware Public Service Commission (“DE PSC”) and the Delaware Division of the Public Advocate (“the DPA”) respectfully submit these Comments in the Federal Communications Commission’s (“FCC’s or “Commission’s”) Docket WC 06-172. On September 6, 2006, the Verizon Telephone Companies (“Verizon” or “the Company”) filed six petitions pursuant to 47 U. S.C. § 160. In each of its petitions, Verizon asks for forbearance from several obligations including section 251 unbundling

obligations and dominant carrier tariffing requirements;<sup>1</sup> similar to the relief granted to Qwest in the Omaha Forbearance Order.<sup>2</sup> One of the filed petitions seeks such forbearance throughout the entire Philadelphia Metropolitan Statistical Area (“MSA”). New Castle County, Delaware, (one of the three counties in the State) is, in its entirety, part of the Philadelphia MSA. Therefore, the citizens of Delaware, the DE PSC and the DPA have a substantial interest in the consequences that would arise if Verizon’s petition is granted.

### DE PSC AND DPA CONCERNS

These comments will address the sweeping request by Verizon to eliminate throughout the entire Philadelphia MSA the Company’s 251 obligations to lease, to other entities, loops and transport to serve mass market customers at Total Elemental Long Run Incremental Cost (“TELRIC”) prices. If forbearance from this condition is granted, then Verizon would be allowed to set prices for these elements under a “just and reasonable” standard implemented by negotiated commercial agreements.<sup>3</sup>

Verizon, in its rush to be freed from statutory and regulatory requirements, has declared in its petition that huge sections of its service

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<sup>1</sup> Footnote 3 of Verizon’s petition related to the Philadelphia MSA lists the specific obligations from which Verizon is requesting forbearance.

<sup>2</sup> *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160 (c) in the Omaha Metropolitan Statistical Area*, Memorandum and Opinion and Order, 20 FCC Rcd 19415 (2005)

<sup>3</sup> The commercial agreements would govern in the portions of the three States that fall within the Philadelphia MSA. Section 252 agreements (based on TELRIC pricing) would apply in the areas outside the MSA.

territory are sufficiently competitive to warrant forbearance. Its Philadelphia MSA petition seeks relief by one order that would apply to an area that encompasses counties in three States. In its petition, Verizon makes little effort to paint the competitive landscape that currently prevails as to each State, or that might prevail in a particular area in a State. The Philadelphia MSA petition specifically refers to territory in the state of Delaware in only two places, yet the results from the forbearance it seeks would affect the competitive alternative services for over 500,000 citizens in Delaware. This would mean that over 60% of the State's 818, 000 residents would be affected by the FCC's action.<sup>4</sup> And if the relief granted would come in the form Verizon seeks, it might mean that the future competitive landscape for one-third of Delaware could be determined by how the FCC views the existing level of competition in Trenton, New Jersey, Center City, Philadelphia, or Chestnut Hill, Pennsylvania. Verizon in its petition and attachments has provided only one New Castle County statistic, asserting that of the 5.8 million people estimated to live in the Philadelphia MSA, nine percent <sup>5</sup> of

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<sup>4</sup> State of Delaware and New Castle County population estimates for 2005 from the U.S. Census Bureau, American Fact Finder at [http://factfinder.census.gov/servlet/ACSSAFFFacts?\\_event=&geo\\_id=04000US10&geoContext=01000US%7C04000US10&street=&county=&cityTown=&state=04000US10&zip=&lang=en&sse=on&ActiveGeoDiv=&useEV=&pctxt=fph&pgsl=040&submenuId=factsheet\\_1&ds\\_name=DEC\\_2000\\_SAFF&ci\\_nbr=null&qtr\\_name=null&reg=&keyword=&industry](http://factfinder.census.gov/servlet/ACSSAFFFacts?_event=&geo_id=04000US10&geoContext=01000US%7C04000US10&street=&county=&cityTown=&state=04000US10&zip=&lang=en&sse=on&ActiveGeoDiv=&useEV=&pctxt=fph&pgsl=040&submenuId=factsheet_1&ds_name=DEC_2000_SAFF&ci_nbr=null&qtr_name=null&reg=&keyword=&industry) and [http://factfinder.census.gov/servlet/ACSSAFFFacts?\\_event=Search&geo\\_id=&geoContext=&street=&county=new+castle+county&cityTown=new+castle+county&state=04000US10&zip=&lang=en&sse=on&pctxt=fph&pgsl=010](http://factfinder.census.gov/servlet/ACSSAFFFacts?_event=Search&geo_id=&geoContext=&street=&county=new+castle+county&cityTown=new+castle+county&state=04000US10&zip=&lang=en&sse=on&pctxt=fph&pgsl=010)

<sup>5</sup> Declaration of Quintin Lew, Judy Verses, and Patrick Garzillo Regarding Competition in the Philadelphia Metropolitan Statistical Area, page 3.

this population lives in the Delaware portion of the MSA. The only other Delaware-specific information in its petition are several public and proprietary maps in Exhibits 3, 4, 5 and (possibly) in 6<sup>6</sup> which show the alleged deployment of intermodal competition and competitive fiber networks in the MSA including New Castle County.<sup>7</sup> With the lack of Delaware-specific data, the DE PSC and DPA have no means with which to analyze Verizon's assertions that the present environment in New Castle County is sufficiently competitive to warrant forbearance from Section 251 loop and transport obligations.<sup>8</sup>

If the FCC were to grant forbearance for the entire MSA without a granular analysis, the DE PSC and the DPA are concerned that the citizens of Delaware may suffer a threat to their competitive choices. For example, Cavalier Telephone Mid-Atlantic LLC ("Cavalier") currently offers both business and residential service to Delaware citizens. Cavalier, unlike other some other CLECs, relies on the provision of loops by Verizon obtained at TELRIC prices to provide its customers voice and broadband services (Cavalier is also offering a video product in Virginia and has expressed an interest in bringing that service to Delaware). The elimination of Verizon's

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<sup>6</sup> The Delaware Public Service Commission has reason to believe that one of the propriety maps in Exhibit 6 is labeled incorrectly.

<sup>8</sup> Indeed, Verizon's petition, as it paints broad, multi-State strokes, shifts to the State Commissions and other objectors, the burden to bring firm evidence of competition on a granular, wire center basis that formed the forbearance markets in the Omaha order and the recent Anchorage Forbearance petition.

unbundling obligation, as requested in its petition, could have severe consequences on Cavalier's provision of services and thus affect the competitive options available to Delaware consumers not only in New Castle County but potentially throughout the rest of the State. The Commission should not impose that result on Delaware unless it has a clear picture (not available in Verizon's petition) of the state of present competition, not in Pennsylvania, or southern New Jersey, but in New Castle County, Delaware.

In sum, the DE PSC and DPA join in the concerns expressed by the Virginia State Corporation Commission ("VSCC") in its comments filed in this docket on December 15, 2006:

The VSCC is not convinced that Verizon's petition, in and of itself, provides sufficient justification and data to warrant the forbearance relief requested. We are concerned that granting Verizon's petition may result in reducing the choices that consumers already have in the telecommunications marketplace in the Virginia Beach MSA."<sup>9</sup>

### CONCLUSION

The DE PSC and DPA maintain that the FCC, in its review of the Verizon forbearance petition first of all must take granular approach, similar to its actions in the Omaha decision, rather than grant the universal relief that Verizon requests. And that granular approach must be on a state-by-state basis. As described above, Verizon has not set forth any clear indicators that assure the DE PSC and the DPA that Verizon's actions have considered any Delaware-specific circumstances. No precise data is given, nor has

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<sup>9</sup> Comments of the Virginia State Corporation Commission filed December 15, 2006

Verizon shown, in any conclusive manner, that its assertions concerning the entire MSA are correct for New Castle County.<sup>10</sup> Only if that type of granular analysis is performed will the consumers of New Castle County and indeed the entire State of Delaware be protected from an unsettling blow to the competitive telecommunications market environment.

Respectfully submitted,

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<sup>10</sup> For example, Verizon implicitly suggests in its petition that the intermodal and intra-modal mass market in New Castle County is sufficient to warrant non-TELRIC pricing of its mass market loops. Yet, Verizon, to date, has never asked the DE PSC to reclassify its dial tone and local usage offerings (either residential or business) as “competitive services” under State law, either in the entire State or just in New Castle County. See Del. C. Ann., title 26, §§ 705(a)(1), 705(c), 706(c) (2006 Supp.